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AN ANALYSIS OF
ELECTORAL BOUNDARY DISTRIBUTION
IN ALBERTA

BY

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INTRODUCTION

Rural Alberta has always been well represented in Alberta's Legislature and rightly so, given the importance of agriculture in this province. However, historically in Alberta, there has been a tendency to over-represent rural areas in the Legislature.

The issue of electoral boundary distribution is always contentious and it never goes away. Presently, in response to developments in British Columbia, the issue is once again being debated in the Alberta Legislature.

This paper will look at the issue of electoral boundary distribution and rural over-representation in Alberta from an historical, legal and political perspective.

THE BRITISH COLUMBIA EXPERIENCE

Judgement by the Honourable Chief Justice McLachlin

In the first of case of its kind in Canada, John Dixon, of the B.C. Civil Liberties Union, petitioned the B.C. Supreme Court in 1985 to review the allocation of seats in the B.C. Legislature by applying the Charter of Rights and Freedoms. In general terms, his petition alleged that uneven distribution in the Province of B.C., whereby there were as many as 15 or 16 times more electors per member in one constituency than another, contravened the principle of one man-one vote, said to be guaranteed by various sections of the Charter.

In April 1989, Chief Justice McLachlin ruled that the current electoral boundaries in B.C. were unconstitutional.[1] The main findings of the case were as follows:

First, the notion that votes should be of "equal value" (equality of voting power) is a feature of the voting rights in section 3 of the Charter of Rights and Freedoms. But there is no requirement of absolute equality.

Second, equality of voting power is the most important factor to be considered in establishing electoral boundaries. However, other factors that contribute to better government can be considered such as geography and regional interests. She suggested that the +/- 25% limit proposed by the B.C. Fischer Commission and currently used by Canada, Quebec, Ontario, Manitoba and Saskatchewan would be acceptable. Under this system, an electoral district cannot deviate beyond +/- 25 per cent of the provincial average.

Third, the courts must show reasonable deference to legislative choices about where electoral boundaries should be drawn.

Fourth, the courts will intervene when voting equality becomes too extreme.

Fifth, the court could specify a period during which the existing legislation remained valid, to allow the legislature to enact a law complying with the Charter.

The Government of B.C. did not appeal the McLachlin decision. Instead, in July 1989, the Select Standing Committee on Labour, Justice and Intergovernmental Relations accepted the Court's ruling and recommended to the B.C. Legislature that various features of the Fischer Commission Report be adopted.

This was a landmark decision and one that will have repercussions in many provincial legislatures, including in Alberta where uneven electoral distribution has existed for quite sometime. As Harvey Pasis says, "Because of the 1989 decision in British Columbia, the meaning of what constitutes fair and just representation is likely to be an important issue in the 1990s".[2]

Judgement by the Honourable Mr. Justice Meredith

Subsequent to the McLachlin decision, the successful petitioners applied to the Court to impose a deadline of June 30, 1989 for the B.C. Legislature to bring the province's electoral districts into line with the requirements of the Charter. B.C.'s Attorney General sought an extension for a longer period of time on the grounds that the June 30th deadline would not afford the B.C. Legislature enough time to remedy the problem.

Mr. Justice Meredith agreed with the position of the Attorney General. In fact he went further, deciding not to impose any deadline whatever on the Legislature. His conclusion is exemplified in the second last line of his judgement: "I think it must be left to the legislature to do what is right in its own time".[3]

The judgement contradicts the judgement of Chief Justice McLachlin who ruled that the court could specify a time-frame. If the Meredith decision prevails, legislators across Canada whose electoral districts are distributed beyond the +/- 25% limit may be less inclined to take speedy action.

THE ALBERTA EXPERIENCE

History of Rural Over-representation in Alberta

In 1989, 59.8 per cent of Albertans lived in urban centres and 40.2 per cent lived in rural areas. Yet in the Alberta Legislature, 50.6 per cent of the 83 seats are designated as urban and 49.4 percent as rural. This imbalance of seats in favour of rural Alberta is not a situation unique to 1989, rather, there is a history of rural over-representation in Alberta. The following table illustrates this point:

Date	Population		Seats	
	% Urban	% Rural	%Urban	%Rural
1952	37.2	62.8	21.3	78.7
1959	41.3	58.7	23.1	76.9
1967	49.4	50.6	30.8	69.2
1981	57.7	42.3	54.4	45.6
1984	58.4	41.6	54.4	45.6
1985	58.6	41.4	54.4	45.6
1986	59.0	41.0	50.6	49.4
1987	59.6	40.4	50.6	49.4
1988	59.7	40.3	50.6	49.4
1989	59.8	40.2	50.6	49.4

Sources: Census of Canada, Alberta Bureau of Statistics.

In 1969, Professor Anthony Long of the University of Lethbridge wrote a paper which provides some reasons why rural Alberta has historically been over-represented. He suggests that there has been a consistent attitude among Alberta legislators to overweight rural areas. This attitude stems from the view that Alberta is "basically an agricultural province, and consequently the agricultural aspect of the economy

should be proportionately over-represented".[4] Long goes on to say, "implicit in this view, however, is a faith in the agrarian democracy, reflecting a basic cultural distrust of urban life, as well as the belief that city dwellers somehow cannot provide "good" government".[5]

He argues that certain segments of the population can be made to remain continually under-represented in terms of their influence in the political system if it is in the interest of the governing party. He concludes that the North American experience has indicated "legislative distribution has often reduced itself to maintaining the dominance of rural power".[6] To a large extent, this has been the case in Alberta.

Current Legislation in Alberta

Authority to conduct redistribution in Alberta is derived from the Electoral Boundaries Commission Act.[7] Section 5 stipulates that a new Electoral Boundaries Commission "shall be appointed during the first session of the Legislature following every 2nd general election following the appointment of the last Commission". Section 3 further states that the Commission's function is to "make proposals to the Legislative Assembly as to the area, boundaries and names of the electoral divisions of Alberta in accordance with the [redistribution] rules set out in Part 2".

Without taking into consideration the distribution between urban and rural population, section 11 arbitrarily directs the Commission to divide Alberta into 83 electoral divisions, of which 42 are to be urban and 41 are to be rural. Furthermore,

there are separate rules for the distribution of urban and rural ridings. The guidelines in Part 2 stipulate that there can be up to a 25% variation from the average voter population for urban ridings, whereas rural ridings must be as equal as possible in size.

Current Situation in Alberta

The Electoral Boundaries Commission Act allows for the current situation where the average rural riding contains just 14,047 electors, compared to 23,212 voters in a typical urban constituency.

British Columbia has the highest level of inequality in Canada with a spread of 150% between the largest and smallest. However, Alberta is not far behind with a spread of 126% seats (Cardston: 8,105, Edmonton-Whitemud: 31,536). This means that one vote in Cardston is worth four votes in Edmonton-Whitemud.

Of Alberta's 42 urban and 41 rural constituencies, 43 fall outside the 25% guideline. Applying the 25% rule, which the B.C. Supreme Court found acceptable, 51% of the seats in Alberta would be affected.

Clearly, the rural areas of Alberta are over-represented and the principle of equality of voting power is not being followed.

Government of Alberta's Response to the Dixon Case

Under normal conditions, a new Electoral Boundaries Commission would have been appointed during the first session of the 22nd Legislature which sat between June 1, 1989 and August 18, 1989, as is required in section 5 of the Act. However, the Dixon case in B.C. drastically altered the usual course of events in Alberta.

Facing a possible constitutional court challenge by a group of concerned citizens represented by an Edmonton lawyer, the Progressive Conservative Government undertook to review Alberta's electoral boundaries legislation. In August, 1989, the government amended the Electoral Boundaries Commission Act, to provide for a one year delay appointing the Electoral Boundaries Commission so as to permit a select special committee to review the situation.

On August 15, 1989, a government motion was agreed to by the Legislative Assembly authorizing the establishment of an all-party Select Special Committee on Electoral Boundaries. The Committee is currently examining the B.C. court decision and whether Alberta's current system, which gives rural Alberta proportionately more MLAs than the cities, complies with the Charter of Rights and Freedoms.

On May 17, 1990 the government introduced a motion in the Legislature to accept the recommendation contained in the Committee's interim report to extend the deadline to deliver the Committee's final report, thereby giving the it more time to conduct public hearings.

The Politics of Electoral Boundary Redistribution

Essentially, the current debate taking place is a political one. Since all but three of Alberta's rural ridings are held by Tories, and the Liberals and New Democrats have a large majority of their members in Calgary and Edmonton, it is no surprise that the government is hesitant to change the system and the opposition is anxious.

The stakes could be quite high for the Tories if urban seats are increased at the expense of rural ones. If the seats had been distributed according to the one man-one vote principle during the 1989 election, it is very possible that the Tories would have only formed a minority government.

With the government in the position of losing the most by moving towards voter equality, it is only logical and politically wise that they attempt to delay the process for as long as possible. The key is to delay it beyond the next election so any changes will not take effect until afterwards.

The government denies that it is deliberately trying to prolong the process beyond the next election, but the fact that the Committee has requested that the deadline for its final report be extended into the fall, suggests otherwise.

THE CASE AGAINST RURAL OVER-REPRESENTATION

> I nevertheless believe that the individualistic criterion is the only one which will fully meet the principle of political equality, a necessary condition of representative government. It is argued, therefore, that the Alberta government in the future should adopt the "one man, one vote" standard for legislative distribution.[8]

Professor Long wrote these words twenty-one years ago, yet very little has changed since then. The arguments in favour of adopting a system where the principle of voter equality is paramount are many and convincing, while the arguments supporting the status quo of rural over-representation are few and unconvincing.

Effective Representation vs. Equal Representation

The main argument articulated by proponents of maintaining the status quo is that effective representation is just as important as equal representation. They argue that other factors must be considered when determining electoral boundaries such as geography, accessibility, population density and the number of local governments and boards to be dealt with. Their view is that if a riding is too large and sparse effective representation will be compromised.

This argument is valid, but only up to a certain point. This point is defined by Chief Justice McLachlin:

> Only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed.[9]

Deviations below the 25% rule can be justified in a few exceptional cases such as in northern Alberta, based on the aforementioned considerations. But the same cannot be said for the other ridings which fall below the 25% guideline. With the advances in technology, communications and transportation of the past decade, maintaining the status quo can no longer be justified on the basis of effective representation.

It is just as unacceptable to have ridings substantially over the 25% guideline as below. As Chief Justice McLachlin says, "it is not consistent with good government that one member be grossly overburdened with constituents, as compared with another member".[10]

Ultimately, if representation is to be effective in the truest sense of the word, then it must also be equal. If it is not, then the whole concept of representative democracy is compromised.

Impossible to Ignore the B.C. Decision

Some argue that the Committee is not bound to follow the 25 per cent guideline. This is true from a legal point of view because Alberta is not bound by a B.C. court decision. But from a practical and realistic point of view, it is extremely difficult to understand how the Committee and the Alberta government could ignore it.

First, Chief Justice McLachlin's judgement is thorough, well-reasoned, balanced and ultimately convincing, as evidenced by the B.C. government's decision not to appeal it.

Second, if the Alberta government ignored the B.C. decision by allowing many ridings to go beyond the +/- 25% rule, then they would be guaranteed a constitutional court challenge. It is conceivable that they could win a court challenge if it involved only a few ridings, but if it involved many, they would probably lose.

Protection of Minority Interests

Another approach used by supporters of rural over-representation is to argue that because rural Alberta is a minority, its interests must be protected from the tyranny of the majority - urban Alberta. They further argue, that because Alberta does not have a bicameral system in which minority or regional interests can be protected, the electoral system must fulfill this function instead.

There are some problems with this argument. First of all, implicit in it is the assumption that urban MLAs would not be interested or care about issues affecting rural Alberta. Their worry, bordering on paranoia, is clearly unfounded. Given the continuing importance of agriculture to Alberta's economy as a whole, all MLAs, whether urban or rural, would want to see it prosper.

Another problem with this argument is that it expects too much from one system. It is not designed to do everything for everybody. Assuming that a unicameral system is suppose to protect minorities, then that would mean that other minorities, such as certain ethnic groups, should have seats in the legislature. When taken to its logical conclusion, this argument is clearly unworkable.

CONCLUSION

Historically, rural over-representation has been the norm in Alberta. Unless there is a successful case arguing in favour of maintaining rural over-representation, which is highly unlikely, those days are numbered.

First, the Dixon case in B.C. has established the principle that "equality of voting power is the single most important factor to be considered in determining electoral boundaries".[11] In addition, Chief Justice McLachlin has said that a +/- 25% deviation from the provincial average is acceptable on basis of geographic and regional considerations. Second, the arguments in favour of maintaining rural over-representation are unconvincing.

It is inevitable that Alberta will have to move towards voter equality. The question is will it happen sooner rather than later?

NOTES

1. Judgement of the Honourable Chief Justice McLachlin, Dixon v. The Attorney General of British Columbia, British Columbia, 1989.

2. Harvey E. Pasis, "Electoral Distribution in the Canadian Provincial Legislatures," in Representation and Electoral Systems: Canadian perspectives, ed. J. Paul Johnston and Harvey E. Pasis (Scarborough: Prentice-Hall, 1990), p. 253.

3. Judgement of the Honourable Mr. Justice Meredith, Dixon v. The Attorney General of British Columbia, British Columbia, 1989.

4. John Anthony Long, "Maldistribution in Western Provincial Legislatures: The Case of Alberta," Canadian Journal of Political Science, 2 (June 1969), p. 346.

5. Ibid.

6. Ibid., p. 348.

7. Electoral Boundaries Commission Act, Chapter E-4, Revised Statutes of Alberta 1980.

8. Long, p. 348.

9. Dixon v. The Attorney General of British Columbia, p. 31.

10. Ibid., p. 30.

11. Dixon, p. 29.

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